



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यपालन द्वारा प्रकाशित

शिमला, सोमवार, १९ दिसम्बर, १९९४/२८ अग्रहायण, १९१६

हिमाचल प्रदेश सरकार

हिमाचल प्रदेश विधान सभा सचिवालय

अधिसूचना

शिमला-१७१००४, १९ दिसम्बर, १९९४

सं० १-८४/९४-वि० स०.—हिमाचल प्रदेश साधारण विनियम कर (द्वितीय संशोधन) विधेयक, १९९४ (१९९४ का विधेयक संख्यांक २३) जो आज दिनांक १९ दिसम्बर, १९९४ को हिमाचल प्रदेश विधान सभा में पुरः स्थापित हो

गया है कि एक प्रति हिमाचल प्रदेश विधान सभा की प्रक्रिया एवं कार्य संचालन नियमावली, 1973 के नियम 135 के अन्तर्गत सर्वसाधारण की सूचनार्थ राजपत्र में मुद्रित करने हेतु प्रेषित की जाती है ।

लक्ष्मण सिंह,
सचिव ।

1994 का विधेयक संख्यांक 24.

हिमाचल प्रदेश साधारण विक्रय कर (द्वितीय संशोधन) विधेयक, 1994

(विधान सभा द्वारा यथा पारित)

हिमाचल प्रदेश साधारण विक्रय कर अधिनियम, 1968 (1968 का 24) का और संशोधन करने के लिए विधेयक ।

भारत गणराज्य के पैतृलिखित बर्ष में हिमाचल प्रदेश विधान सभा द्वारा निम्नलिखित रूप में यह अधिनियमित है:—

1. इस अधिनियम का संक्षिप्त नाम हिमाचल प्रदेश साधारण विक्रय कर (द्वितीय संशोधन) अधिनियम, 1994 है ।

संक्षिप्त नाम ।

1968 का 24

2. हिमाचल प्रदेश साधारण विक्रय कर अधिनियम, 1968 (जिसे इसमें इसके पश्चात् मूल अधिनियम कहा गया है) की धारा 6 के पश्चात् निम्नलिखित धारा 6-A अन्तःस्थापित की जाएगी, अर्थात्:—

धारा 6-A का अन्तःस्थापन ।

“6-A. *Declarations and certificates to be filed alongwith returns.*—
Every dealer claiming,—

- (i) any deduction from his gross turnover, or
 - (ii) any part of his taxable turnover to be a sale to Government, or
 - (iii) any part of the taxable turnover to be liable to tax at concessional rate of tax or to an exemption under section 42-B of this Act,
- shall furnish, alongwith the return to be furnished under sub-section (3) of section 12, to the assessing authority, the declaration or the certificate as required under this Act.”

3. मूल अधिनियम की धारा 8 में,—

धारा 8 का संशोधन ।

(i) उप-धारा (4) में “Commissioner” शब्द के पश्चात् “or the prescribed authority” शब्द और “amend” शब्द के पश्चात् “suspend” शब्द, और शब्द अन्तःस्थापित किए जाएंगे, और

(ii) उप-धारा (5) और (6) में “Commissioner” शब्द के पश्चात् “or the prescribed authority” शब्द अन्तःस्थापित किए जाएंगे ।

4. मूल अधिनियम की धारा 15 में, उप-धारा (1) के स्थान पर निम्नलिखित रखी जाएगी, अर्थात्:—

धारा 15 का संशोधन ।

“(1) If in consequence of definite information which has come into his possession, the Assessing Authority discovers that the turnover of the business of a dealer has been under-assessed or escaped assessment in any year, the Assessing Authority may, at any time within three years from the date of assessment under

section 14, proceed to re-assess the tax payable on the turnover which has been under-assessed or has escaped assessment :

Provided that the Assessing Authority may also take action to impose the penalty and interest under this Act :

Provided further that no order of re-assessment or imposition of penalty and interest shall be made unless the dealer is afforded a reasonable opportunity of being heard in the prescribed manner."

धारा 20 का
संशोधन ।

5. मूल अधिनियम की धारा 20 में, उप-धारा (4) में परन्तु के भाग (iii) में, "Deputy Commissioner" शब्दों के स्थान पर "District Magistrate" शब्द रखे जाएंगे ।

नई धारा
20-A का
अन्तःस्थापन ।

6. मूल अधिनियम की धारा 20 के पश्चात् निम्नलिखित नई धारा 20-A अन्तःस्थापित की जाएगी, अर्थात्:—

"20-A. *Power of survey.*—(1) Notwithstanding anything contained in any other provision of this Act, any Assistant Excise and Taxation Commissioner or Excise and Taxation Officer appointed to assist the Commissioner under sub-section (1) of section 3 or an Excise and Taxation Inspector, duly authorised by the Commissioner may, for the purpose of survey regarding ascertainment of commencement of liability for registration under section 8 of this Act, enter—

- (a) any place within the limits of the area assigned to him, or
- (b) any place occupied by any dealer in respect of which he exercises jurisdiction,

at which the dealer carrying on the business, keeps any of his books of accounts or other documents or any part of his cash relating to the sale or purchase of goods or stock of goods relating to his business and require any dealer, employee or any other person who may at that time and place be attending in any manner to, or helping in the carrying on of such business—

- (i) to afford him the necessary facility to inspect such books of accounts or other documents as he may require and which may be available at such place;
- (ii) to afford him the necessary facility to check or verify the cash and stock of goods which may be found therein; and
- (iii) to furnish such information including such statement as he may require as to any matter which may be useful for or relevant to, any proceedings under this Act.

(2) For the purpose of sub-section (1), no entry in the dwelling house shall be made—

- (i) after sunset or before the sunrise;
- (ii) by any officer below the rank of an Excise and Taxation Officer ; and

(iii) without obtaining the sanction of the District Magistrate within whose jurisdiction such house is situated."

7. मूल अधिनियम की धारा 21 में,—

धारा 21 का संशोधन।

(i) उप-धारा (1) के स्थान पर निम्नलिखित रखी जाएगी, अर्थात्:—

"(1) Any assessee or dealer, who is entitled or required to attend before any authority in connection with any proceedings under this Act, except when required to attend in person, may attend through a person authorised by him in writing in this behalf, in the prescribed manner, being a relative or a regular and wholtime employee of such assessee or dealer or an advocate or a sales tax practitioner.";

(ii) उप-धारा (2) में,—

(क) "an "income-tax practitioner" means" शब्दों के स्थान पर "a "sales tax practitioner" means" शब्द रखे जाएंगे, और

(ख) "who has passed any accountancy examination recognised in this behalf, by the Central Board of Revenue" शब्दों के स्थान पर "a Chartered Accountant" शब्द रखे जाएंगे; और

(iii) उप-धारा (4) और (5) के स्थान पर निम्नलिखित रखी जाएंगी, अर्थात्:—

"(4) Every sales tax practitioner, other than an Advocate, and every other person who is entitled to appear before any authority under sub-section (1) in any proceedings under this Act, shall get himself enrolled as such with the Commissioner on payment of such fee as may be prescribed.

(5) If any sales tax practitioner or any other person who represents any assessee or dealer, is found guilty of misconduct, in any proceedings before any authority under this Act, by the Commissioner, the Commissioner may by order direct that he shall be disqualified to represent any assessee or dealer under sub-section (1) :

Provided that no such order shall be made in respect of any such sales tax practitioner or other person unless he is given a reasonable opportunity of being heard".

8. मूल अधिनियम की धारा 31 में, उप-धारा (2) में, "in the notification" शब्दों के पश्चात् "and such officer shall be deemed to be the Commissioner for the purposes of sub-section (1)" शब्द जोड़े जाएंगे। धारा 31 का संशोधन।

9. मूल अधिनियम की धारा 32 के स्थान पर निम्नलिखित रखी जाएगी, धारा 32 का प्रतिस्थापन।
अर्थात्:—

"32. Rectification of mistakes.—(1) The Commissioner or the officer on whom powers of the Commissioner for the purposes of

sub-section (1) of section 31 have been conferred by the State Government may at any time within one year from the date of any order passed by him on an application made to him or of his own motion, rectify any mistake apparent from the record, and shall within a like period rectify any such mistake which has been brought to his notice by any person affected by such order:

Provided that the Commissioner may entertain an application under this sub-section after the expiry of the said period of one year, if he is satisfied that the applicant was prevented by sufficient cause from making the application in time :

Provided further that no such rectification shall be made if it has the effect of enhancing the tax or reducing the amount of refund, unless the Commissioner has given notice in writing to such person of his intention to do so and has allowed such person a reasonable opportunity of being heard.

- (2) Where any such rectification has the effect of enhancing or reducing the amount of tax or penalty, the Commissioner shall, in the prescribed manner, order the recovery of the amount due from, or as the case may be order the refund of the amount due to, such person."

धारा 42-B
का संशोधन।

10. मूल अधिनियम की धारा 42-B में,—

(i) पाठ्य शीर्षक में "materials" शब्द को स्थान पर "processing and packing material" विरक्त और शब्द जोड़े जाएंगे,

(ii) शब्दों "certificate of registration, for use by him as raw material in the manufacture in Himachal Pradesh of any goods --

(a) for sale in the State of Himachal Pradesh; or

(b) for sale in the course of inter-State trade or commerce;" के स्थान पर "certificate of registration, --

(a) for use by him as raw material in the manufacture in Himachal Pradesh of any goods for sale therein or in the course of inter-State trade or commerce; and

(b) for use by him in the processing or packing of goods so manufactured for sale;" शब्द रखे जाएंगे; और

(iii) द्वितीय परतुक में "goods" शब्द को स्थान पर "manufactured goods" शब्द रखे जाएंगे।

उद्योगों और कारखानों का काम

यह तथा गया है कि व्योहारियों द्वारा अपने कार्यों के लिए जान वाले धावणा-पलों और प्रमाण-पलों के प्रभाव में निर्धारण बहुत अधिक संख्या में लम्बे समय तक स्थित रहते हैं। अतः निर्धारणों की अतिरिक्त: सभा-समय और शीघ्रता में सुनिश्चित करने के लिए यह आवश्यक है कि व्योहारियों का अपने कार्यों के सम्बंध में धावणा-पलों और प्रमाण-पलों की विविधियों के साथ फार्मल करने के लिए बाध्य किया जाए। जहाँ की अतिरिक्त पुनः निर्धारण किए जाने और खर्चों व्ययों को सुधारने के लिए सुनिश्चित प्रबंध नियत करना भी आवश्यक है।

राज्य में उद्योगों की स्थापना के लिए प्रोत्साहन देने के लिए, प्रसार में लाई जाने वाली पैकिंग और परसकरण सामग्री और निर्मित साम को विक्रय पर रियायती दर पर विक्रय कर उद्गृहीत करने का भी प्रस्ताव है।

यह विधेयक उद्योगों की प्रगत को लिए है।

सरत राम,
प्रधारी अध्यक्ष।

शिमला:

19 दिसम्बर, 1994.

वित्तीय मापन

प्रसंस्करण और पैकिंग सामग्री पर रियायती दर से कर उद्गृहीत करने में राजकोष का लगभग एक करोड़ रुपये की वार्षिक हानि होगी। विधेयक में अल्पविकृत उद्योगों विद्यमान सरकारी तन्त्र द्वारा कायमचित किए जाएंगे और राजस्व में कोई अतिरिक्त बाध लगाने नहीं होगा।

प्रत्यापीडित विधान सम्बन्धी प्रमाण

विधेयक के खण्ड 7 द्वारा धारा 21 का प्रस्तावित संशोधन राज्य सरकार को, निर्धारित या व्योहारी के अधिकारियों को प्राधिकार देने और तत्सम्बन्धित करने की रीति विहित करने के लिए नियम बनाने को सक्षम करता है। धारा 32 के प्रतिस्पर्धित उद्योगों सरकार को ऐसी रीति विहित करने के लिए सक्षम करते हैं, जिसमें वेम राशि का प्रतिपाद किया जाता है।

2. मूल अधिनियम की धारा 10 के उपबन्धों के फलस्वरूप प्रस्तावित-नियम, पूर्व प्रकाश के पश्चात् बनाए जाएंगे। यह प्रत्यापीडित आवश्यक और सामान्य स्वरूप का है।

भारत के संविधान के अनुच्छेद 207 के अधीन राज्यपाल की सिफारिशें

(नर्सन संख्या: ई0एचस0एल0-एफ0 (11) 1/03-III शासकारी व कर्मागत विभाग)

हिमाचल प्रदेश के राज्यापाल, हिमाचल प्रदेश साधारण विधायक (द्वितीय संशोधन) विधेयक, 1994 की विधेयक वस्तु के बारे में सूचित किए जाने के पश्चात् भारत के संविधान के अनुच्छेद 207 के अधीन उक्त विधेयक को विभाग तथा में पुरःस्थापित करने और उस पर विचार करने की सिफारिश करते हैं।

AUTHORITATIVE ENGLISH TEXT

Bill No 24 of 1994.

THE HIMACHAL PRADESH GENERAL SALES TAX (SECOND AMENDMENT) BILL, 1994

(AS PASSED BY THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Himachal Pradesh General Sales Tax Act, 1968. (Act No. 24 of 1968).

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-fifth Year of the Republic of India, as follows:—

Short title. 1. This Act may be called the Himachal Pradesh General Sales Tax (Second Amendment) Act, 1994.

Insertion of section 6-A. 2. After section 6 of the Himachal Pradesh General Sales Tax Act, 1968 (hereinafter called the principal Act), the following section 6-A shall be inserted, namely:—

“6-A. Declarations and certificates to be filed alongwith returns.—
Every dealer claiming,—

- (i) any deduction from his gross turnover, or
- (ii) any part of his taxable turnover to be a sale to Government, or
- (iii) any part of the taxable turnover to be liable” to tax at concessional rate of tax or to an exemption under section 42-B of this Act,

shall furnish, alongwith the return to be furnished under sub-section (3) of section 12, to the assessing authority, the declaration or the certificate as required under this Act.”

Amendment of section 8.

3. In section 8 of the principal Act,—

- (i) in sub-section (4), after the word “Commissioner”, the words “or the prescribed authority” and after the word “amend”, the sign and the word “suspend” shall be inserted; and
- (ii) in sub-sections (5) and (6), after the word “Commissioner”, the words “or the prescribed authority” shall be inserted.

Amendment of section 15.

4. In section 15 of the principal Act, for sub-section (1), the following shall be substituted, namely:—

- “(1) If in consequence of definite information which has come into his possession, the Assessing Authority discovers that the turnover of the business of a dealer has been under assessed or escaped assessment in any year, the Assessing Authority may, at any time within three years from the date of assessment under section 14, proceed to re-assess the tax payable on the turnover which has been under-assessed or has escaped assessment ;

Provided that the Assessing Authority may also take action to impose the penalty and interest under this Act :

Provided further that no order of re-assessment or imposition of penalty and interest shall be made unless the dealer is afforded a reasonable opportunity of being heard in the prescribed manner."

5. In section 20 of the principal Act, in sub-section (4), in part (iii) of the proviso, for the words "Deputy Commissioner", the words "District Magistrate" shall be substituted.

Amendment of section 20.

6. After section 20 of the principal Act, the following new section 20-A shall be inserted, namely:—

Insertion of new section 20-A.

"20-A. *Power of survey.*—(1) Notwithstanding anything contained in any other provision of this Act, any Assistant Excise and Taxation Commissioner or Excise and Taxation Officer appointed to assist the Commissioner under sub-section (1) of section 3 or an Excise and Taxation Inspector, duly authorised by the Commissioner may, for the purpose of survey regarding ascertainment of commencement of liability for registration under section 8 of this Act, enter—

- (a) any place within the limits of the area assigned to him. or
- (b) any place occupied by any dealer in respect of which he exercises jurisdiction,

at which the dealer carrying on the business, keeps any of his books of accounts or other documents or any part of his cash relating to the sale or purchase of goods or stock of goods relating to his business and require any dealer, employee or any other person who may at that time and place be attending in any manner to, or helping in carrying on of such business—

- (i) to afford him the necessary facility to inspect such books of accounts or other documents as he may require and which may be available at such place,
- (ii) to afford him the necessary facility to check or verify the cash and stock of goods which may be found therein, and
- (iii) to furnish such information including such statement as he may require as to any matter which may be useful for, or relevant to, any proceedings under this Act.

(2) For the purpose of sub-section (1), no entry in the dwelling house shall be made—

- (i) after sunset or before the sunrise ;
- (ii) by any officer below the rank of an Excise and Taxation Officer; and
- (iii) without obtaining the sanction of the District Magistrate within whose jurisdiction such house is situated."

Amendment
of
section 21.

7. In section 21 of the principal Act,—

(i) for sub-section (1), the following shall be substituted, namely:—

“(1) Any assessee or dealer, who is entitled or required to attend before any authority in connection with any proceedings under this Act, except when required to attend in person, may attend through a person authorised by him in writing in this behalf, in the prescribed manner, being a relative or a regular and whole time employee of such assessee or dealer or an advocate or a sales tax practitioner.”;

(ii) in sub-section (2),—

(a) for the words and signs “an “income-tax practitioner” means”, the words and the signs “a “sales tax practitioner” means” shall be substituted, and

(b) for the words and sign “who has passed any accountancy examination recognised in this behalf, by the Central Board of Revenue”, the words “a Chartered Accountant” shall be substituted, and

(iii) for sub-sections (4) and (5), the following shall be substituted, namely:—

“(4) Every sales tax practitioner, other than an Advocate, and every other person who is entitled to appear before any authority under sub-section (1) in any proceedings under this Act, shall get himself enrolled as such with the Commissioner on payment of such fee as may be prescribed.

(5) If any sales tax practitioner or any other person who represents any assessee or dealer, is found guilty of misconduct, in any proceedings before any authority under this Act, by the Commissioner, the Commissioner may by order direct that he shall be disqualified to represent any assessee or dealer under sub-section (1) :

Provided that no such order shall be made in respect of any such sales tax practitioner or other person unless he is given a reasonable opportunity of being heard.”

Amendment
of
section 31.

8. In section 31 of the principal Act, in sub-section (2), after the words “in the notification”, the words “and such officer shall be deemed to be the Commissioner for the purposes of sub-section (1)” shall be added.

Substitu-
tion of
section 32.

9. For section 32 of the principal Act, the following shall be substituted, namely :—

“32. *Rectification of mistakes.*—(1) The Commissioner or the officer on whom powers of the Commissioner for the purposes of sub-section (1) of section 31 have been conferred by the State Government may at any time within one year from the date of any order passed by him on an application made to him or of his own motion, rectify any mistake apparent from the record, and shall within a like period rectify any such mistake which

has been brought to his notice by any person affected by such order :

Provided that the Commissioner may entertain an application under this sub-section after the expiry of the said period of one year, if he is satisfied that the applicant was prevented by sufficient cause from making the application in time:

Provided further that no such rectification shall be made if it has the effect of enhancing the tax or reducing the amount of refund, unless the Commissioner has given notice in writing to such person of his intention to do so and has allowed such person a reasonable opportunity of being heard.

- (2) Where any such rectification has the effect of enhancing or reducing the amount of tax or penalty, the Commissioner shall, in the prescribed manner, order the recovery of the amount due from or as the case may be order the refund of the amount due to, such person."

10. In section 42-B of the principal Act—

Amendment
of
section 42-B.

- (i) in the marginal heading after the word "materials", the sign and words "processing and packing material" shall be added ;
(ii) for the words "certificate of registration, for use by him as raw material in the manufacture in Himachal Pradesh of any goods—

- (a) for sale in the State of Himachal Pradesh ; or
(b) for sale in the course of inter-State trade or commerce ;",

the words "certificate of registration,—

- (a) for use by him as raw material in the manufacture in Himachal Pradesh of any goods for sale therein or in the course of inter-State trade or commerce; and
(b) for use by him in the processing or packing of goods so manufactured for sale :"; shall be substituted;

- (iii) in the second proviso for the word "goods", the words "manufactured goods" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

It has been observed that quite a large number of assessments remain pending for considerably long time, for want of declarations and certificates to be furnished by the dealers in support of their claims. Thus, in order to ensure timely and speedy finalization of assessments, it is necessary to make it obligatory that the dealers should file alongwith their returns the declarations and certificates in support of their claims. Apart from this, it is also necessary to fix the reasonable period within which the re-assessment can be made or mistake therein can be rectified.

To provide incentives for setting-up industries in the State, it is also proposed to levy sales tax at concessional rate on sales of packing and processing material for use in and sale of manufactured goods.

This Bill seeks to achieve the aforesaid objectives.

SANT RAM,
Minister-in-charge.

SHIMLA :

The 19th December, 1994.

FINANCIAL MEMORANDUM

Levy of concessional rate of tax on processing and packing material will cause annual loss of revenue of rupees one crore approximately to the State Exchequer. The provisions contained in the Bill will be implemented by the existing Government machinery and no additional expenditure will be incurred out of the State Exchequer.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 21 proposed to be amended by clause 7 of the Bill empowers the State Government to make rules to prescribe the manner of authorisation and enrolment of the agents of an assessee or a dealer. Substituted provisions of section 32 enable the Government to prescribe the manner in which the refund of the amount due is to be made.

2. By virtue of the provisions of section 40 of the principal Act, the proposed rules are to be made after previous publication. These delegations are essential and normal in character.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

(File No EXN—F (II) 1/93-III Excise and Taxation Department)

The Governor of Himachal Pradesh, after having been informed of the subject matter of the Himachal Pradesh General Sales Tax (Second Amendment) Bill, 1994, recommends, under article 207 of the Constitution of India, the introduction and consideration of the aforesaid Bill in the State Legislative Assembly.